

LICENSING SUB-COMMITTEE

5 June 2024

New Premises Licence Application for Moors Valley Country Park, Ashley Heath

For Decision

Portfolio Holder:

Cllr G Taylor, Public Health, Environmental Health, Housing, Community Safety and Regulatory Service

Local Councillor(s):

Cllrs R Bryan and B Gorringe

Executive Director:

Jan Britton, Executive Lead for Place

Report Author: Aileen Powell

Job Title: Licensing Team Leader

Tel: 01258 484022

Email: aileen.powell@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary: An application has been made for a new premises licence at Moors Valley Country Park and Forest, Ashley Heath. The application has been advertised in accordance with regulations and has attracted relevant representations. A Licensing Sub Committee must consider the application and representations at a public hearing.

Recommendation: The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of; -

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

Reason for Recommendation: The Sub-Committee must consider both the written representations received and any oral representations given at the hearing before reaching a decision.

1. Background

1.1 Section 4 of the Licensing Act 2003 sets out the duties of the Licensing Authority, it sets out that a Council's licensing functions must be carried out with a view to promoting the four licensing objectives of:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

1.2 All applications and decisions are made with due regard to the [Licensing Act 2003](#) (the Act), the [Revised Guidance issued under Section 182 of the Licensing Act 2003](#) (the Guidance) and the [Dorset Council Statement of Licensing Policy](#) (the Policy).

2. Details of the Application

2.1 Forestry England have applied for a premises licence under section 17 of the Licensing Act 2023 for Moors Valley Country Park and Forest, Horton Road, Ashley Heath, BH24 2ET. The application form is attached at Appendix 1.

2.2 The description of the premises given by the applicant is: -

Moors Valley Country Park and Forest is a joint owned venture between Dorset Council and Forestry England. Established in 1994, the park covers approximately 800 acres of recreational woodland space. This popular visitor attraction provides a variety of outdoor and seasonal activities throughout the year.

On arrival there is a large car parking facility from where you can access the Visitor Centre. There are a number of facilities once inside the premises including a Licensed Restaurant, Shop, Medical point, Toilet and Baby changing facilities. Wheelchairs and mobility scooters are also available to hire for those visitors requiring accessible assistance.

Moors Valley has an experienced Visitor and Event Management team based on site, who deliver a range of seasonal and family friendly activities across the site. A popular local destination the park attracts Forestry England members, and non members from further afield to enjoy this rural location.

Moors Valley is open all year round with the exception of Christmas Day. The application is for on-sales only.

2.3 After being amended by the applicant (see paragraph 4.3) The application is for; -

Sale of alcohol for consumption on the premises

Everyday 10:00 to 22:55

Films (indoors and outdoors)

Every day between 10:00 and 23:00.

- 2.4 There will be no adult entertainment.
- 2.5 The operating schedule contains a number of steps to promote the Licensing Objectives that the applicant is proposing as conditions to attach to a licence if it were to be granted.

3. Responsible Authorities Representations

- 3.1 Section 13 of the Licensing Act contains the list of Responsible Authorities who must be consulted on each application. Dorset Police, Dorset and Wiltshire Fire Service, Public Health Dorset, the Immigration Authority, Dorset Council Trading Standards, Dorset Council Children's Services, Dorset Council Planning, Dorset Council Licensing, Dorset Council Environmental Protection and Dorset Council Health and Safety have all been consulted.
- 3.2 Dorset and Wiltshire Fire Service have no adverse comments to make but have requested that a Fire Risk Assessment be carried out under the Regulatory Reform (Fire Safety) Order 2005. The Representation is attached at Appendix 2
- 3.3 Dorset Council Environmental Protection have requested that a Noise Management Plan (NMP) is completed and agreed with them. The representation is attached at Appendix 3.
- 3.4 Dorset Council Licensing requested that the hearing be delayed until the Safety Advisory Group (SAG) could meet with the applicants to discuss the application and types of events that were being planned. They have submitted a set of proposed conditions for consideration by the Sub-Committee. The representation and their suggested conditions are attached at Appendix 4.
- 3.5 Dorset Council Children's Services and Dorset Council Planning have responded saying they have no comments.
- 3.6 Dorset Police, Public Health Dorset, the Immigration Authority, Dorset Council Trading Standards and Dorset Council Health and Safety have not made any representations.

4. Representations from Other Persons

- 4.1 The Licensing Act 2003 Section 182 Guidance (the Guidance) sets out at 8.13 the role of "other persons":

As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations

made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

4.2 The Guidance states at paragraph 9.4 what a "relevant" representation is;

A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives."

4.3 There have been 17 representations from other persons, this includes one from the Town Council. The representation from the Town Council is in support of the application the remainder of the representations are not. The representations against the application cite increased traffic, the highway not being fit for purpose, drink driving and accidents along the road, car parking facilities, increased noise from events, the effects on the wildlife, light pollution, the potential number of events, one person asking for a limit of 4 events per year, not enough toilets, potential public disorder, the incompatibility of children with events with alcohol, the risk of fires and rubbish. The full representations can be found at Appendix 5.

4.4 Not all the specific points raised relate to the four licensing objectives, and the Sub-Committee will need to differentiate between those matters that do relate to one of the licensing objectives and are relevant and those which do not relate to one of the licensing objectives and therefore cannot be taken into account. Matters that relate to the Prevention of Crime objective would include public disorder, light pollution and noise from events would fall within the Prevention of Public Nuisance objective. Matters relating to traffic and the highways are usually a matter for the planning authority and are not normally a consideration for a licence application. Drink driving is the responsibility of the individual and not a matter any licence holder could reasonably be expected to prevent, and whilst the Authority is under a general duty to consider the environment, matters relating to the wildlife cannot be considered as they do not relate to one of the four licensing objectives. Chapter 2 of the Guidance sets out in detail what can be related to the Licensing Objectives and has been attached at Appendix 7.

4.3 A response was sent out to all of the people and bodies making representations, The response included removing the recorded music from the application. The response did not result in any representations being withdrawn. The response is attached at Appendix 6.

5. **Relevant Sections of the Licensing Act 2003**

5.1 Section 4 sets out the general duties of the Licensing Authority; -

- (1) A licensing authority must carry out its functions under this Act (“licensing functions”) with a view to promoting the licensing objectives.
- (2) The licensing objectives are—
 - (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.
- (3) In carrying out its licensing functions, a licensing authority must also have regard to—
 - (a) its licensing statement published under section 5, and
 - (b) any guidance issued by the Secretary of State under section 182.

6. **Relevant Sections of the Statutory Guidance issued under Section 182**

6.1 Paragraphs 1.2, 1.4 and 1.5 of the Revised Guidance issued under Section 182 of the Licensing Act 2003 issued in December 2023 (The Guidance) sets out the Licensing Objectives and aims; -

The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and

- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

6.2 Paragraph 1.16 of the Guidance sets out how conditions should be formulated; -

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met;
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

6.3 Paragraph 1.19 states; -

While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

6.4 Chapter 2 of the Guidance sets out what the Licensing Objectives are and is included in full at Appendix 7.

6.4 Paragraphs 9.42 – 9.44 of the Guidance set out how the Licensing Authority will determine an application; -

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require

a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.”

6.5 Paragraph 10.18 of the Guidance states that; -

Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

7. Options

7.1 The Sub-Committee will determine the application in the light of all of the written representations and any oral evidence from the hearing. They will take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of; -

- a. The prevention of crime and disorder
- b. The prevention of public nuisance
- c. Public safety
- d. The protection of children from harm

The steps that the Sub-Committee may take are:-

- a. to grant the licence subject to such conditions as the authority considers appropriate for the promotion of the licensing objectives, and the mandatory conditions;
- b. to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c. to refuse to specify a person in the licence as the designated premises supervisor;
- d. to reject the application.

8. **Financial Implications**

Any decision of the Sub Committee could lead to an appeal by any of the parties involved that could incur costs.

9. **Natural Environment, Climate & Ecology Implications**

The Council is under a general duty to consider the impact any decision will have on the Natural Environment, Climate and local ecology.

10. **Well-being and Health Implications**

None

11. **Other Implications**

None

12. **Risk Assessment**

12.1 **HAVING CONSIDERED:** the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

13. **Equalities Impact Assessment**

Not applicable

14. **Appendices**

Appendix 1 – Application and Plan

Appendix 2 – Representations from DWFRS and EP

Appendix 3 – Representations from Licensing Authority

Appendix 4 – Representations from Interested Parties

Appendix 5 – Response from Applicant

Appendix 6 – Guidance on Licensing Objectives

15. **Background Papers**

[Licensing Act 2003](#)

[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)

[Dorset Council Statement of Licensing Policy 2021](#)